

SENATE BILL No. 178

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-12-3.7-6; IC 20-28-5-8; IC 31-19-9-10; IC 31-34-21-5.6; IC 35-42-2-1; IC 35-45-6-1; IC 35-46-1-4; IC 35-47-4-5; IC 35-50-2-9.

Synopsis: Battery and neglect of a dependent. Increases the penalty for neglect of a dependent and battery if the crime is committed against an endangered adult or a person with a physical or mental disability.

Effective: July 1, 2016.

Messmer

January 6, 2016, read first time and referred to Committee on Corrections & Criminal Law.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 178

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 11-12-3.7-6, AS AMENDED BY P.L.158-2013,
- 2 SECTION 178, IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2016]: Sec. 6. As used in this chapter, "violent
- 4 offense" means one (1) or more of the following offenses:
- 5 (1) Murder (IC 35-42-1-1).
- 6 (2) Attempted murder (IC 35-41-5-1).
- 7 (3) Voluntary manslaughter (IC 35-42-1-3).
- 8 (4) Involuntary manslaughter (IC 35-42-1-4).
- 9 (5) Reckless homicide (IC 35-42-1-5).
- 10 (6) Aggravated battery (IC 35-42-2-1.5).
- 11 (7) Battery (IC 35-42-2-1) as a:
- 12 (A) Class A felony, Class B felony, or Class C felony (for a
- 13 crime committed before July 1, 2014); or
- 14 (B) **Level 1 felony**, Level 2 felony, Level 3 felony, **Level 4**
- 15 **felony**, or Level 5 felony (for a crime committed after June 30,
- 16 2014).
- 17 (8) Kidnapping (IC 35-42-3-2).



(9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8 that is a:

(A) Class A felony, Class B felony, or Class C felony (for a crime committed before July 1, 2014); or

(B) Level 1 felony, Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony (for a crime committed after June 30, 2014).

(10) Sexual misconduct with a minor (IC 35-42-4-9) as a:

(A) Class A felony or Class B felony (for a crime committed before July 1, 2014); or

(B) Level 1 felony, Level 2 felony, or Level 4 felony (for a crime committed after June 30, 2014).

(11) Incest (IC 35-46-1-3).

(12) Robbery (IC 35-42-5-1) as a:

(A) Class A felony or a Class B felony (for a crime committed before July 1, 2014); or

(B) Level 2 felony or Level 3 felony (for a crime committed after June 30, 2014).

(13) Burglary (IC 35-43-2-1) as a:

(A) Class A felony or a Class B felony (for a crime committed before July 1, 2014); or

(B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4 felony (for a crime committed after June 30, 2014).

(14) Carjacking (IC 35-42-5-2) (repealed).

(15) Assisting a criminal (IC 35-44.1-2-5) as a:

(A) Class C felony (for a crime committed before July 1, 2014); or

(B) Level 5 felony (for a crime committed after June 30, 2014).

(16) Escape (IC 35-44.1-3-4) as a:

(A) Class B felony or Class C felony (for a crime committed before July 1, 2014); or

(B) Level 4 felony or Level 5 felony (for a crime committed after June 30, 2014).

(17) Trafficking with an inmate (IC 35-44.1-3-5) as a:

(A) Class C felony (for a crime committed before July 1, 2014); or

(B) Level 5 felony (for a crime committed after June 30, 2014).

(18) Causing death when operating a vehicle (IC 9-30-5-5).

(19) Criminal confinement (IC 35-42-3-3) as a:

(A) Class B felony (for a crime committed before July 1,



- 1 2014); or
 2 (B) Level 3 felony (for a crime committed after June 30,
 3 2014).
 4 (20) Arson (IC 35-43-1-1) as a:
 5 (A) Class A or Class B felony (for a crime committed before
 6 July 1, 2014); or
 7 (B) Level 2, Level 3, or Level 4 felony (for a crime committed
 8 after June 30, 2014).
 9 (21) Possession, use, or manufacture of a weapon of mass
 10 destruction (IC 35-47-12-1).
 11 (22) Terroristic mischief (IC 35-47-12-3) as a:
 12 (A) Class B felony (for a crime committed before July 1,
 13 2014); or
 14 (B) Level 4 felony (for a crime committed after June 30,
 15 2014).
 16 (23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
 17 (24) A violation of IC 35-47.5 (controlled explosives) as a:
 18 (A) Class A or Class B felony (for a crime committed before
 19 July 1, 2014); or
 20 (B) Level 2 or Level 4 felony (for a crime committed after
 21 June 30, 2014).
 22 (25) A crime under the laws of another jurisdiction, including a
 23 military court, that is substantially similar to any of the offenses
 24 listed in this subdivision.
 25 (26) Any other crimes evidencing a propensity or history of
 26 violence.
 27 SECTION 2. IC 20-28-5-8, AS AMENDED BY P.L.238-2015,
 28 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2016]: Sec. 8. (a) This section applies when a prosecuting
 30 attorney knows that a licensed employee of a public school or a
 31 nonpublic school has been convicted of an offense listed in subsection
 32 (c). The prosecuting attorney shall immediately give written notice of
 33 the conviction to the following:
 34 (1) The state superintendent.
 35 (2) Except as provided in subdivision (3), the superintendent of
 36 the school corporation that employs the licensed employee or the
 37 equivalent authority if a nonpublic school employs the licensed
 38 employee.
 39 (3) The presiding officer of the governing body of the school
 40 corporation that employs the licensed employee, if the convicted
 41 licensed employee is the superintendent of the school corporation.
 42 (b) The superintendent of a school corporation, presiding officer of



the governing body, or equivalent authority for a nonpublic school shall immediately notify the state superintendent when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c), or when the governing body or equivalent authority for a nonpublic school takes any final action in relation to an employee who engaged in any offense listed in subsection (c).

(c) The department, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the department to have been convicted of any of the following felonies:

- (1) Kidnapping (IC 35-42-3-2).
- (2) Criminal confinement (IC 35-42-3-3).
- (3) Rape (IC 35-42-4-1).
- (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- (5) Child molesting (IC 35-42-4-3).
- (6) Child exploitation (IC 35-42-4-4(b)).
- (7) Vicarious sexual gratification (IC 35-42-4-5).
- (8) Child solicitation (IC 35-42-4-6).
- (9) Child seduction (IC 35-42-4-7).
- (10) Sexual misconduct with a minor (IC 35-42-4-9).
- (11) Incest (IC 35-46-1-3).
- (12) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- (14) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (15) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- (18) Dealing in marijuana, hash oil, hashish, or salvia as a felony (IC 35-48-4-10).
- (19) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its amendment in 2013).
- (20) Possession of child pornography (IC 35-42-4-4(c)).
- (21) Homicide (IC 35-42-1).
- (22) Voluntary manslaughter (IC 35-42-1-3).
- (23) Reckless homicide (IC 35-42-1-5).
- (24) Battery (**IC 35-42-2-1**) as any of the following:
 - (A) A Class A felony (for a crime committed before July 1, 2014) or a **Level 1 or** Level 2 felony (for a crime committed



- 1 after June 30, 2014).
- 2 (B) A Class B felony (for a crime committed before July 1,
- 3 2014) or a Level 3 felony **or Level 4 felony** (for a crime
- 4 committed after June 30, 2014).
- 5 (C) A Class C felony (for a crime committed before July 1,
- 6 2014) or a Level 5 felony (for a crime committed after June
- 7 30, 2014).
- 8 (25) Aggravated battery (IC 35-42-2-1.5).
- 9 (26) Robbery (IC 35-42-5-1).
- 10 (27) Carjacking (IC 35-42-5-2) (before its repeal).
- 11 (28) Arson as a Class A felony or Class B felony (for a crime
- 12 committed before July 1, 2014) or as a Level 2, Level 3, or Level
- 13 4 felony (for a crime committed after June 30, 2014)
- 14 (IC 35-43-1-1(a)).
- 15 (29) Burglary as a Class A felony or Class B felony (for a crime
- 16 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
- 17 or Level 4 felony (for a crime committed after June 30, 2014)
- 18 (IC 35-43-2-1).
- 19 (30) Attempt under IC 35-41-5-1 to commit an offense listed in
- 20 this subsection.
- 21 (31) Conspiracy under IC 35-41-5-2 to commit an offense listed
- 22 in this subsection.
- 23 (d) The department, after holding a hearing on the matter, shall
- 24 permanently revoke the license of a person who is known by the
- 25 department to have been convicted of a federal offense or an offense in
- 26 another state that is comparable to a felony listed in subsection (c).
- 27 (e) A license may be suspended by the state superintendent as
- 28 specified in IC 20-28-7.5.
- 29 (f) The department shall develop a data base of information on
- 30 school corporation employees who have been reported to the
- 31 department under this section.
- 32 SECTION 3. IC 31-19-9-10, AS AMENDED BY P.L.168-2014,
- 33 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2016]: Sec. 10. A court shall determine that consent to
- 35 adoption is not required from a parent if:
- 36 (1) the parent is convicted of and incarcerated at the time of the
- 37 filing of a petition for adoption for:
- 38 (A) murder (IC 35-42-1-1);
- 39 (B) causing suicide (IC 35-42-1-2);
- 40 (C) voluntary manslaughter (IC 35-42-1-3);
- 41 (D) rape (IC 35-42-4-1);
- 42 (E) criminal deviate conduct (IC 35-42-4-2) (before its repeal);



- 1 (F) child molesting (IC 35-42-4-3) as a:
 2 (i) Class A or Class B felony, for a crime committed before
 3 July 1, 2014; or
 4 (ii) Level 1, Level 2, Level 3, or Level 4 felony, for a crime
 5 committed after June 30, 2014;
 6 (G) incest (IC 35-46-1-3) as a:
 7 (i) Class B felony, for a crime committed before July 1,
 8 2014; or
 9 (ii) Level 4 felony, for a crime committed after June 30,
 10 2014;
 11 (H) neglect of a dependent (IC 35-46-1-4) as a:
 12 (i) Class B felony, for a crime committed before July 1,
 13 2014; or
 14 (ii) Level 1, **Level 2**, or Level 3 felony, for a crime
 15 committed after June 30, 2014;
 16 (I) battery (IC 35-42-2-1) of a child as a:
 17 (i) Class C felony, for a crime committed before July 1,
 18 2014; or
 19 (ii) Level 5 felony, for a crime committed after June 30,
 20 2014;
 21 (J) battery (IC 35-42-2-1) as a:
 22 (i) Class A or Class B felony, for a crime committed before
 23 July 1, 2014; or
 24 (ii) **Level 1**, Level 2, or Level 3 felony, for a crime
 25 committed after June 30, 2014; or
 26 (K) an attempt under IC 35-41-5-1 to commit an offense
 27 described in clauses (A) through (J);
 28 (2) the child or the child's sibling, half-blood sibling, or
 29 step-sibling of the parent's current marriage is the victim of the
 30 offense; and
 31 (3) after notice to the parent and a hearing, the court determines
 32 that dispensing with the parent's consent to adoption is in the
 33 child's best interests.
 34 SECTION 4. IC 31-34-21-5.6, AS AMENDED BY P.L.158-2013,
 35 SECTION 323, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2016]: Sec. 5.6. (a) A court may make a finding
 37 described in this section at any phase of a child in need of services
 38 proceeding.
 39 (b) Reasonable efforts to reunify a child with the child's parent,
 40 guardian, or custodian or preserve a child's family as described in
 41 section 5.5 of this chapter are not required if the court finds any of the
 42 following:



(1) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

(A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through IC 31-35-3-4(1)(J) against a victim who is:

(i) a child described in IC 31-35-3-4(2); or

(ii) a parent of the child; or

(B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.

(2) A parent, guardian, or custodian of a child who is a child in need of services:

(A) has been convicted of:

(i) the murder (IC 35-42-1-1) or voluntary manslaughter (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or

(ii) a comparable offense described in item (i) in any other state, territory, or country; or

(B) has been convicted of:

(i) aiding, inducing, or causing another person;

(ii) attempting; or

(iii) conspiring with another person;

to commit an offense described in clause (A).

(3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

(A) battery (**IC 35-42-2-1**) as a Class A felony (for a crime committed before July 1, 2014) or **as a Level 1 or Level 2** felony (for a crime committed after June 30, 2014);

(B) battery (**IC 35-42-2-1**) as a Class B felony (for a crime committed before July 1, 2014) or Level 3 or Level 4 felony (for a crime committed after June 30, 2014);

(C) battery (**IC 35-42-2-1**) as a Class C felony (for a crime committed before July 1, 2014) or Level 5 felony (for a crime committed after June 30, 2014);

(D) aggravated battery (IC 35-42-2-1.5);

(E) criminal recklessness (IC 35-42-2-2) as a Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014);

(F) neglect of a dependent (IC 35-46-1-4) as a Class B felony (for a crime committed before July 1, 2014) or a Level 1, **Level 2**, or Level 3 felony (for a crime committed after June 30, 2014); or



(G) a comparable offense described in clauses (A) through (F) in another state, territory, or country; against a child described in IC 31-35-3-4(2)(B).

(4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:

(A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);

(B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or

(C) any comparable law described in clause (A) or (B) in any other state, territory, or country.

(5) The child is an abandoned infant, provided that the court:

(A) has appointed a guardian ad litem or court appointed special advocate for the child; and

(B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child.

SECTION 5. IC 35-42-2-1, AS AMENDED BY P.L.147-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) As used in this section, "public safety official" means:

(1) a law enforcement officer, including an alcoholic beverage enforcement officer;

(2) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71);

(3) an employee of the department of correction;

(4) a probation officer;

(5) a parole officer;

(6) a community corrections worker;

(7) a home detention officer;

(8) a department of child services employee;

(9) a firefighter;

(10) an emergency medical services provider; or

(11) a judicial officer.

(b) Except as provided in subsections (c) through ~~(j)~~; **(k)**, a person who knowingly or intentionally:

(1) touches another person in a rude, insolent, or angry manner; or

(2) in a rude, insolent, or angry manner places any bodily fluid or



1 waste on another person;
 2 commits battery, a Class B misdemeanor.

3 (c) The offense described in subsection (b)(1) or (b)(2) is a Class A
 4 misdemeanor if it results in bodily injury to any other person.

5 (d) The offense described in subsection (b)(1) or (b)(2) is a Level 6
 6 felony if one (1) or more of the following apply:

7 (1) The offense results in moderate bodily injury to any other
 8 person.

9 (2) The offense is committed against a public safety official while
 10 the official is engaged in the official's official duty.

11 (3) The offense is committed against a person less than fourteen
 12 (14) years of age and is committed by a person at least eighteen
 13 (18) years of age.

14 ~~(4) The offense is committed against a person of any age who has~~
 15 ~~a mental or physical disability and is committed by a person~~
 16 ~~having the care of the person with the mental or physical~~
 17 ~~disability, whether the care is assumed voluntarily or because of~~
 18 ~~a legal obligation.~~

19 ~~(5) The offense is committed against an endangered adult (as~~
 20 ~~defined in IC 12-10-3-2).~~

21 ~~(6)~~ (4) The offense is committed against a family or household
 22 member (as defined in IC 35-31.5-2-128) if the person who
 23 committed the offense:

24 (A) is at least eighteen (18) years of age; and

25 (B) committed the offense in the physical presence of a child
 26 less than sixteen (16) years of age, knowing that the child was
 27 present and might be able to see or hear the offense.

28 (e) The offense described in subsection (b)(2) is a Level 6 felony if
 29 the person knew or recklessly failed to know that the bodily fluid or
 30 waste placed on another person was infected with hepatitis,
 31 tuberculosis, or human immunodeficiency virus.

32 (f) The offense described in subsection (b)(1) or (b)(2) is a Level 5
 33 felony if one (1) or more of the following apply:

34 (1) The offense results in serious bodily injury to another person.

35 (2) The offense is committed with a deadly weapon.

36 (3) The offense results in bodily injury to a pregnant woman if the
 37 person knew of the pregnancy.

38 (4) The person has a previous conviction for battery against the
 39 same victim.

40 (5) The offense results in bodily injury to one (1) or more of the
 41 following:

42 (A) A public safety official while the official is engaged in the



official's official duties.

(B) A person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

~~(C) A person who has a mental or physical disability if the offense is committed by an individual having care of the person with the disability, regardless of whether the care is assumed voluntarily or because of a legal obligation.~~

~~(D) An endangered adult (as defined in IC 12-10-3-2).~~

(6) The offense is committed against a person of any age who has a mental or physical disability and is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(7) The offense is committed against an endangered adult (as defined in IC 12-10-3-2).

(g) The offense described in subsection (b)(2) is a Level 5 felony if:

(1) the person knew or recklessly failed to know that the bodily fluid or waste placed on another person was infected with hepatitis, tuberculosis, or human immunodeficiency virus; and

(2) the person placed the bodily fluid or waste on a public safety official.

(h) The offense described in subsection (b)(1) or (b)(2) is a Level 4 felony if it results in ~~serious~~ **serious** bodily injury to:

(1) an endangered adult (as defined in IC 12-10-3-2); or

(2) a person of any age who has a mental or physical disability if the offense is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(i) The offense described in subsection (b)(1) or (b)(2) is a Level 3 felony if it results in serious bodily injury to:

(1) a person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age;

(2) an endangered adult (as defined in IC 12-10-3-2); or

(3) a person of any age who has a mental or physical disability if the offense is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

(j) The offense described in subsection (b)(1) or (b)(2) is a Level 2 felony if it results in the death of ~~one (1) or more of the following:~~

~~(1) A~~ **(1) A** person less than fourteen (14) years of age if the offense is committed by a person at least eighteen (18) years of age.

~~(2) An endangered adult (as defined in IC 12-10-3-2).~~



(k) The offense described in subsection (b)(1) or (b)(2) is a Level 1 felony if it results in the death of one (1) or more of the following:

(1) An endangered adult (as defined in IC 12-10-3-2).

(2) A person of any age who has a mental or physical disability if the offense is committed by a person having the care of the person with the mental or physical disability, whether the care is assumed voluntarily or because of a legal obligation.

SECTION 6. IC 35-45-6-1, AS AMENDED BY P.L.168-2014, SECTION 84, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

(c) "Enterprise" means:

(1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or

(2) a union, an association, or a group, whether a legal entity or merely associated in fact.

(d) "Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

(e) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

(1) A provision of IC 23-19, or of a rule or order issued under IC 23-19.

(2) A violation of IC 35-45-9.

(3) A violation of IC 35-47.

(4) A violation of IC 35-49-3.

(5) Murder (IC 35-42-1-1).

(6) Battery as a Class C felony before July 1, 2014, or a Level 5 felony, **Level 4 felony, Level 3 felony, Level 2 felony, or Level 1 felony** after June 30, 2014 (IC 35-42-2-1).

(7) Kidnapping (IC 35-42-3-2).



- 1 (8) Human and sexual trafficking crimes (IC 35-42-3.5).
- 2 (9) Child exploitation (IC 35-42-4-4).
- 3 (10) Robbery (IC 35-42-5-1).
- 4 (11) Carjacking (IC 35-42-5-2) (before its repeal).
- 5 (12) Arson (IC 35-43-1-1).
- 6 (13) Burglary (IC 35-43-2-1).
- 7 (14) Theft (IC 35-43-4-2).
- 8 (15) Receiving stolen property (IC 35-43-4-2).
- 9 (16) Forgery (IC 35-43-5-2).
- 10 (17) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(10)).
- 11 (18) Bribery (IC 35-44.1-1-2).
- 12 (19) Official misconduct (IC 35-44.1-1-1).
- 13 (20) Conflict of interest (IC 35-44.1-1-4).
- 14 (21) Perjury (IC 35-44.1-2-1).
- 15 (22) Obstruction of justice (IC 35-44.1-2-2).
- 16 (23) Intimidation (IC 35-45-2-1).
- 17 (24) Promoting prostitution (IC 35-45-4-4).
- 18 (25) Professional gambling (IC 35-45-5-3).
- 19 (26) Maintaining a professional gambling site
- 20 (IC 35-45-5-3.5(b)).
- 21 (27) Promoting professional gambling (IC 35-45-5-4).
- 22 (28) Dealing in or manufacturing cocaine or a narcotic drug
- 23 (IC 35-48-4-1).
- 24 (29) Dealing in or manufacturing methamphetamine
- 25 (IC 35-48-4-1.1).
- 26 (30) Dealing in a schedule I, II, or III controlled substance
- 27 (IC 35-48-4-2).
- 28 (31) Dealing in a schedule IV controlled substance
- 29 (IC 35-48-4-3).
- 30 (32) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 31 (33) Dealing in marijuana, hash oil, hashish, or salvia
- 32 (IC 35-48-4-10).
- 33 (34) Money laundering (IC 35-45-15-5).
- 34 (35) A violation of IC 35-47.5-5.
- 35 (36) A violation of any of the following:
- 36 (A) IC 23-14-48-9.
- 37 (B) IC 30-2-9-7(b).
- 38 (C) IC 30-2-10-9(b).
- 39 (D) IC 30-2-13-38(f).
- 40 (37) Practice of law by a person who is not an attorney
- 41 (IC 33-43-2-1).
- 42 (38) Dealing in a synthetic drug or synthetic drug lookalike



substance (IC 35-48-4-10.5, or IC 35-48-4-10 before its amendment in 2013).

SECTION 7. IC 35-46-1-4, AS AMENDED BY P.L.168-2014, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

- (1) places the dependent in a situation that endangers the dependent's life or health;
- (2) abandons or cruelly confines the dependent;
- (3) deprives the dependent of necessary support; or
- (4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Level 6 felony.

(b) However, the offense is:

- (1) a Level 5 felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and:

(A) results in bodily injury; ~~or~~

(B) is:

- (i) committed in a location where a person is violating IC 35-48-4-1 (dealing in cocaine or a narcotic drug) or IC 35-48-4-1.1 (dealing in methamphetamine); or
- (ii) the result of a violation of IC 35-48-4-1 (dealing in cocaine or a narcotic drug) or IC 35-48-4-1.1 (dealing in methamphetamine); ~~or~~

(C) is committed against a dependent who is:

- (i) an endangered adult (as defined in IC 12-10-3-2); or**
- (ii) a person of any age who has a mental or physical disability;**

- (2) a Level 3 felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

- (3) a Level 1 felony if it is committed under subsection (a)(1), (a)(2), or (a)(3):

(A) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; ~~or~~

(B) and results in the death of:

- (i) an endangered adult (as defined in IC 12-10-3-2); or**
- (ii) a person of any age who has a mental or physical disability; and**

- (4) a Level 5 felony if it is committed under subsection (a)(2) and consists of cruel confinement or abandonment that:

(A) deprives a dependent of necessary food, water, or sanitary



1 facilities;

2 (B) consists of confinement in an area not intended for human
3 habitation; or

4 (C) involves the unlawful use of handcuffs, a rope, a cord,
5 tape, or a similar device to physically restrain a dependent;

6 **(5) a Level 4 felony if it is committed under:**

7 **(A) subsection (a)(1), (a)(2), or (a)(3) and results in bodily**
8 **injury to:**

9 **(i) an endangered adult (as defined in IC 12-10-3-2); or**

10 **(ii) a person of any age who has a mental or physical**
11 **disability; or**

12 **(B) subsection (a)(2) against an endangered adult (as**
13 **defined in IC 12-10-3-2) or a person of any age who has a**
14 **mental or physical disability if the offense consists of cruel**
15 **confinement or abandonment that:**

16 **(i) deprives a dependent of necessary food, water, or**
17 **sanitary facilities;**

18 **(ii) consists of confinement in an area not intended for**
19 **human habitation; or**

20 **(iii) involves the unlawful use of handcuffs, a rope, a**
21 **cord, tape, or a similar device to physically restrain a**
22 **dependent; and**

23 **(6) a Level 2 felony if it is committed under subsection (a)(1),**
24 **(a)(2), or (a)(3) against an endangered adult (as defined in**
25 **IC 12-10-3-2) or a person of any age who has a mental or**
26 **physical disability and results in serious bodily injury.**

27 (c) It is a defense to a prosecution based on an alleged act under this
28 section that:

29 (1) the accused person left a dependent child who was, at the time
30 the alleged act occurred, not more than thirty (30) days of age
31 with an emergency medical provider who took custody of the
32 child under IC 31-34-2.5 when:

33 (A) the prosecution is based solely on the alleged act of
34 leaving the child with the emergency medical services
35 provider; and

36 (B) the alleged act did not result in bodily injury or serious
37 bodily injury to the child; or

38 (2) the accused person, in the legitimate practice of the accused
39 person's religious belief, provided treatment by spiritual means
40 through prayer, in lieu of medical care, to the accused person's
41 dependent.

42 (d) Except for property transferred or received:



(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under section 9(b) of this chapter;

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Level 6 felony.

SECTION 8. IC 35-47-4-5, AS AMENDED BY P.L.168-2014, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:

(1) committing a serious violent felony in:

(A) Indiana; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or

(2) attempting to commit or conspiring to commit a serious violent felony in:

(A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

(1) murder (IC 35-42-1-1);

(2) voluntary manslaughter (IC 35-42-1-3);

(3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);

(4) battery (IC 35-42-2-1) as a:

(A) Class A felony, Class B felony, or Class C felony, for a crime committed before July 1, 2014; or

(B) **Level 1 felony**, Level 2 felony, Level 3 felony, Level 4 felony, or Level 5 felony, for a crime committed after June 30, 2014;

(5) aggravated battery (IC 35-42-2-1.5);

(6) kidnapping (IC 35-42-3-2);

(7) criminal confinement (IC 35-42-3-3);

(8) rape (IC 35-42-4-1);

(9) criminal deviate conduct (IC 35-42-4-2) (before its repeal);

(10) child molesting (IC 35-42-4-3);

(11) sexual battery (IC 35-42-4-8) as a:



- 1 (A) Class C felony, for a crime committed before July 1, 2014;
- 2 or
- 3 (B) Level 5 felony, for a crime committed after June 30, 2014;
- 4 (12) robbery (IC 35-42-5-1);
- 5 (13) carjacking (IC 35-42-5-2) (before its repeal);
- 6 (14) arson (IC 35-43-1-1(a)) as a:
- 7 (A) Class A felony or Class B felony, for a crime committed
- 8 before July 1, 2014; or
- 9 (B) Level 2 felony, Level 3 felony, or Level 4 felony, for a
- 10 crime committed after June 30, 2014;
- 11 (15) burglary (IC 35-43-2-1) as a:
- 12 (A) Class A felony or Class B felony, for a crime committed
- 13 before July 1, 2014; or
- 14 (B) Level 1 felony, Level 2 felony, Level 3 felony, or Level 4
- 15 felony, for a crime committed after June 30, 2014;
- 16 (16) assisting a criminal (IC 35-44.1-2-5) as a:
- 17 (A) Class C felony, for a crime committed before July 1, 2014;
- 18 or
- 19 (B) Level 5 felony, for a crime committed after June 30, 2014;
- 20 (17) resisting law enforcement (IC 35-44.1-3-1) as a:
- 21 (A) Class B felony or Class C felony, for a crime committed
- 22 before July 1, 2014; or
- 23 (B) Level 2 felony, Level 3 felony, or Level 5 felony, for a
- 24 crime committed after June 30, 2014;
- 25 (18) escape (IC 35-44.1-3-4) as a:
- 26 (A) Class B felony or Class C felony, for a crime committed
- 27 before July 1, 2014; or
- 28 (B) Level 4 felony or Level 5 felony, for a crime committed
- 29 after June 30, 2014;
- 30 (19) trafficking with an inmate (IC 35-44.1-3-5) as a:
- 31 (A) Class C felony, for a crime committed before July 1, 2014;
- 32 or
- 33 (B) Level 5 felony, for a crime committed after June 30, 2014;
- 34 (20) criminal gang intimidation (IC 35-45-9-4);
- 35 (21) stalking (IC 35-45-10-5) as a:
- 36 (A) Class B felony or Class C felony, for a crime committed
- 37 before July 1, 2014; or
- 38 (B) Level 4 felony or Level 5 felony, for a crime committed
- 39 after June 30, 2014;
- 40 (22) incest (IC 35-46-1-3);
- 41 (23) dealing in or manufacturing cocaine or a narcotic drug
- 42 (IC 35-48-4-1);



- (24) dealing in methamphetamine (IC 35-48-4-1.1);
- (25) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (26) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- or
- (27) dealing in a schedule V controlled substance (IC 35-48-4-4).

(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Level 4 felony.

SECTION 9. IC 35-50-2-9, AS AMENDED BY P.L.187-2015, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. (a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with an intellectual disability.

(b) The aggravating circumstances are as follows:

- (1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:
 - (A) Arson (IC 35-43-1-1).
 - (B) Burglary (IC 35-43-2-1).
 - (C) Child molesting (IC 35-42-4-3).
 - (D) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
 - (E) Kidnapping (IC 35-42-3-2).
 - (F) Rape (IC 35-42-4-1).
 - (G) Robbery (IC 35-42-5-1).
 - (H) Carjacking (IC 35-42-5-2) (before its repeal).
 - (I) Criminal gang activity (IC 35-45-9-3).
 - (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
 - (K) Criminal confinement (IC 35-42-3-3).
- (2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure a person or damage property.
- (3) The defendant committed the murder by lying in wait.
- (4) The defendant who committed the murder was hired to kill.



- 1 (5) The defendant committed the murder by hiring another person
2 to kill.
- 3 (6) The victim of the murder was a corrections employee,
4 probation officer, parole officer, community corrections worker,
5 home detention officer, fireman, judge, or law enforcement
6 officer, and either:
7 (A) the victim was acting in the course of duty; or
8 (B) the murder was motivated by an act the victim performed
9 while acting in the course of duty.
- 10 (7) The defendant has been convicted of another murder.
- 11 (8) The defendant has committed another murder, at any time,
12 regardless of whether the defendant has been convicted of that
13 other murder.
- 14 (9) The defendant was:
15 (A) under the custody of the department of correction;
16 (B) under the custody of a county sheriff;
17 (C) on probation after receiving a sentence for the commission
18 of a felony; or
19 (D) on parole;
20 at the time the murder was committed.
- 21 (10) The defendant dismembered the victim.
- 22 (11) The defendant:
23 (A) burned, mutilated, or tortured the victim; or
24 (B) decapitated or attempted to decapitate the victim;
25 while the victim was alive.
- 26 (12) The victim of the murder was less than twelve (12) years of
27 age.
- 28 (13) The victim was a victim of any of the following offenses for
29 which the defendant was convicted:
30 (A) Battery committed before July 1, 2014, as a Class D felony
31 or as a Class C felony under IC 35-42-2-1 or battery
32 committed after June 30, 2014, as a Level 6 felony, a Level 5
33 felony, a Level 4 felony, ~~or~~ a Level 3 felony, **a Level 2 felony,**
34 **or a Level 1 felony.**
35 (B) Kidnapping (IC 35-42-3-2).
36 (C) Criminal confinement (IC 35-42-3-3).
37 (D) A sex crime under IC 35-42-4.
- 38 (14) The victim of the murder was listed by the state or known by
39 the defendant to be a witness against the defendant and the
40 defendant committed the murder with the intent to prevent the
41 person from testifying.
- 42 (15) The defendant committed the murder by intentionally



discharging a firearm (as defined in IC 35-47-1-5):

(A) into an inhabited dwelling; or

(B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).

(17) The defendant knowingly or intentionally:

(A) committed the murder:

(i) in a building primarily used for an educational purpose;

(ii) on school property; and

(iii) when students are present; or

(B) committed the murder:

(i) in a building or other structure owned or rented by a state educational institution or any other public or private postsecondary educational institution and primarily used for an educational purpose; and

(ii) at a time when classes are in session.

(18) The murder is committed:

(A) in a building that is primarily used for religious worship; and

(B) at a time when persons are present for religious worship or education.

(c) The mitigating circumstances that may be considered under this section are as follows:

(1) The defendant has no significant history of prior criminal conduct.

(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.

(3) The victim was a participant in or consented to the defendant's conduct.

(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.



(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of educational credit, good time credit, and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection (l).



1 (h) If a court sentences a defendant to death, the court shall order
 2 the defendant's execution to be carried out not later than one (1) year
 3 and one (1) day after the date the defendant was convicted. The
 4 supreme court has exclusive jurisdiction to stay the execution of a
 5 death sentence. If the supreme court stays the execution of a death
 6 sentence, the supreme court shall order a new date for the defendant's
 7 execution.

8 (i) If a person sentenced to death by a court files a petition for
 9 post-conviction relief, the court, not later than ninety (90) days after the
 10 date the petition is filed, shall set a date to hold a hearing to consider
 11 the petition. If a court does not, within the ninety (90) day period, set
 12 the date to hold the hearing to consider the petition, the court's failure
 13 to set the hearing date is not a basis for additional post-conviction
 14 relief. The attorney general shall answer the petition for post-conviction
 15 relief on behalf of the state. At the request of the attorney general, a
 16 prosecuting attorney shall assist the attorney general. The court shall
 17 enter written findings of fact and conclusions of law concerning the
 18 petition not later than ninety (90) days after the date the hearing
 19 concludes. However, if the court determines that the petition is without
 20 merit, the court may dismiss the petition within ninety (90) days
 21 without conducting a hearing under this subsection.

22 (j) A death sentence is subject to automatic review by the supreme
 23 court. The review, which shall be heard under rules adopted by the
 24 supreme court, shall be given priority over all other cases. The supreme
 25 court's review must take into consideration all claims that the:

26 (1) conviction or sentence was in violation of the:

27 (A) Constitution of the State of Indiana; or

28 (B) Constitution of the United States;

29 (2) sentencing court was without jurisdiction to impose a
 30 sentence; and

31 (3) sentence:

32 (A) exceeds the maximum sentence authorized by law; or

33 (B) is otherwise erroneous.

34 If the supreme court cannot complete its review by the date set by the
 35 sentencing court for the defendant's execution under subsection (h), the
 36 supreme court shall stay the execution of the death sentence and set a
 37 new date to carry out the defendant's execution.

38 (k) A person who has been sentenced to death and who has
 39 completed state post-conviction review proceedings may file a written
 40 petition with the supreme court seeking to present new evidence
 41 challenging the person's guilt or the appropriateness of the death
 42 sentence if the person serves notice on the attorney general. The



1 supreme court shall determine, with or without a hearing, whether the
2 person has presented previously undiscovered evidence that
3 undermines confidence in the conviction or the death sentence. If
4 necessary, the supreme court may remand the case to the trial court for
5 an evidentiary hearing to consider the new evidence and its effect on
6 the person's conviction and death sentence. The supreme court may not
7 make a determination in the person's favor nor make a decision to
8 remand the case to the trial court for an evidentiary hearing without
9 first providing the attorney general with an opportunity to be heard on
10 the matter.

11 (l) Before a sentence may be imposed under this section, the jury,
12 in a proceeding under subsection (e), or the court, in a proceeding
13 under subsection (g), must find that:

- 14 (1) the state has proved beyond a reasonable doubt that at least
15 one (1) of the aggravating circumstances listed in subsection (b)
16 exists; and
17 (2) any mitigating circumstances that exist are outweighed by the
18 aggravating circumstance or circumstances.

